**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO.373 OF 2006**

**IN**

**SUMMARY SUIT NO.1902 OF 2006**

M/s Shivam Trading Corporation ...Plaintiffs

v/s

M/s Universe Enterprises and ors. ...Defendants

Mr Vipul Shukla for Plaintiffs.

Mr K.R. Tiwari for Defendants.

**CORAM : D.K. DESHMUKH J.**

**DATE : 7TH NOVEMBER 2006.**

**P.C.** :-

1. There is no dispute between the parties that goods were supplied by the plaintiffs to the defendants from the month of July 2004 to September 2005. The goods were duly received by the defendants. The only defence offered is that alongwith the goods, test certificate which is required to be sent was not sent by the plaintiffs to the defendants and that the goods were defective. But admittedly there is no letter written by the defendants to the plaintiffs at any point of time either asking for supply of test certificate or informing the plaintiffs that the goods supplied by them are defective. If the goods supplied by the plaintiffs were defective, it was for the defendants to inform the plaintiffs that the goods are defective and either call upon the plaintiffs to rectify the defect or to send back the goods. Not only no such letter was written by the defendants to the plaintiffs, but when the plaintiffs served the demand notice, even that is not replied. The learned counsel appearing for defendants states that the defendants had stated in that letter which was written by the defendants to its own bankers that the goods are defective. In my opinion, that letter is totally irrelevant. It is thus clear that the defendants have no defence to offer. The plaintiffs are

entitled for judgment. Summons for judgment is granted. Suit of the plaintiffs is decreed in terms of prayer clause (a). Refund of court fees as per rules.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

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